

CHAPTER NO. 79

HOUSE BILL NO. 240

By Representative Rhinehart

Substituted for: Senate Bill No. 307

By Senator Atchley

AN ACT to amend Tennessee Code Annotated, Sections 8-34-302(a)(8), 8-34-604, 8-35-219, 8-36-117, 8-36-121, 8-36-501(c), 8-36-502(c), 8-36-505, 8-36-805(2), 8-36-820(b), and 8-37-212; and Title 8, Chapter 37, Part 1, relative to the Tennessee Consolidated Retirement System.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 8-34-302(a)(8), is amended by deleting the words "council on pensions and retirement" and by substituting instead the words "council on pensions and insurance".

SECTION 2. Tennessee Code Annotated, Section 8-34-604, is amended by deleting subsections (a)-(c) in their entirety and by substituting instead the following:

(a) Upon retirement, any employee of the state who has accumulated sick leave under chapter 50, part 8 of this title, or any teacher who has accumulated sick leave under § 49-5-710, or any state university and community college system or University of Tennessee employee member who has accumulated sick leave to an extent not exceeding that sick leave provided under chapter 50, part 8 of this title, shall be credited with such accumulated sick leave as creditable service at the rate specified in subsection (b) of this section; provided, that:

(1) The last employing department or agency employer shall certify on a form prescribed by the board of trustees the number of unused accumulated sick leave days to the credit of such member at the time of retirement;

(2) The employer shall certify that the accrued sick leave claimed is substantiated by records of the employer's agency compiled during the course of employment for which the leave was earned and not from records compiled solely for purposes of establishing retirement credit; and

(3) Employee members of the state university and community college system and the University of Tennessee shall receive no more retirement credit for such accumulated sick leave than any other state employee, and shall not be credited with such leave as creditable service at a rate exceeding twelve (12) days per year of service.

(b) Each twenty (20) days of accumulated sick leave shall equal a month of retirement credit, or any time less than twenty (20) days, a fractional part thereof. Any teacher or education agency employee who renders a school year of service that is less than twelve (12) full months is nevertheless entitled to receive credit for unused accumulated sick leave at retirement. The amount of such credit shall be proportionate to twelve (12) months divided by the number of

months in the school year for that position. The number of months scheduled to work per year during the majority of the member's last three (3) years of service shall be used to establish whether the retiring member is a nine (9), ten (10), eleven (11) or twelve (12) month employee for purposes of this section.

(c) The governing body of any employer participating in the retirement system pursuant to chapter 35, part 2 of this title may authorize its general employees who have unused accumulated sick leave at retirement to be credited with such accrued leave pursuant to the provisions of this section. Before any such credit is granted, the governing body must pass a resolution authorizing the credit and accepting the liability therefor.

SECTION 3. Tennessee Code Annotated, Section 8-35-219, is amended by deleting the same in its entirety and by substituting instead the following:

8-35-219. (a) Notwithstanding § § 8-35-103 and 8-35-217 to the contrary, any current or future employer which participates in the retirement system pursuant to this part shall have the option to exclude its part-time employees from membership in the retirement system by passage of a resolution of its chief governing body; provided, however, any person participating in the retirement system by virtue of part-time service prior to the effective date of this act shall continue to be eligible for membership in the retirement system.

(b) The chief legislative body of any employer participating in the retirement system pursuant to this part may elect at a later date to extend retirement coverage to its part-time employees by passage of a resolution authorizing such coverage and accepting the liability therefor.

SECTION 4. Tennessee Code Annotated, Section 8-36-117, is amended by deleting it in its entirety and by substituting instead the following:

Except for the month of December, 1999, monthly benefit payments shall be remitted to beneficiaries on the last working day of the month which shall represent payment for that month. Monthly benefit payments for the month of December, 1999 shall be remitted to beneficiaries on December 28, 1999 which shall represent payment for that month. "Remitted" means either to issue payment by first class mail or by direct deposit in an account at a financial institution selected by the beneficiary.

SECTION 5. Tennessee Code Annotated, Section 8-36-121, is amended by deleting subsections (b)-(d) in their entirety and by substituting instead the following:

(b) Except as provided in subsection (e) of this section, a member may change such member's nomination at any time by a similar written designation.

(c) Prior to filing an application for retirement benefits, a member may name more than one (1) person as beneficiary. By doing so, benefits are payable in a lump sum and are not payable under § 8-36-108, § 8-36-109 or part 6 of this chapter, unless the member's surviving spouse is one of the beneficiaries named. If the member's surviving spouse is named, the spouse shall be entitled to receive any retirement allowance which would otherwise have been payable had the surviving spouse been named the sole beneficiary. If the named surviving spouse elects to receive a retirement allowance, no benefits shall be paid to the remaining beneficiaries. If the named surviving spouse elects to receive the lump sum payment provided herein, the payment shall be distributed in equal proportions among the named surviving spouse and the other

surviving beneficiaries. For purposes of this section, "person" means any individual, firm, organization, partnership, association, corporation, estate or trust.

(d) Amounts payable to multiple beneficiaries shall be distributed in equal proportions among the surviving beneficiaries.

(e) Upon retirement, the member shall designate only one (1) person as beneficiary. The designation of beneficiary on the application for retirement shall supersede the designation of all previous beneficiaries, and may not be changed or revoked, except as provided in part 6 of this chapter.

SECTION 6. Tennessee Code Annotated, Section 8-36-501(c)(4), is amended by adding the following new sentence at the end thereof:

This section shall not be construed to prevent any increase in the ordinary disability retirement allowance of a member in excess of the seventy-five percent (75%) limit when such increase is in accordance with § 8-36-124 or § 8-36-701.

SECTION 7. Tennessee Code Annotated, Section 8-36-501(c)(7), is amended by adding the following immediately after the first sentence thereof:

This section shall not be construed to prevent any increase in the ordinary disability retirement allowance of a member in excess of the seventy-five percent (75%) or the one hundred percent (100%) limit when such increase is in accordance with § 8-36-124 or § 8-36-701.

SECTION 8. Tennessee Code Annotated, Section 8-36-502(c), is amended by adding the following as a new subdivision (c)(2) and by redesignating the existing subdivision (c)(2) accordingly:

(2) This subsection shall not be construed to prevent any increase in the accidental disability retirement allowance of a member in excess of the limits set forth in subsection (c)(1) when such increase is in accordance with § 8-36-124 or § 8-36-701.

SECTION 9. Tennessee Code Annotated, Section 8-36-505, is amended by deleting the same in its entirety and by substituting instead the following:

Any member eligible for a disability retirement may set the effective date of such member's retirement at any date within one hundred fifty (150) days before or after the date such member's application is filed with the board; provided, that such effective date of retirement follows the date of such member's separation from service, the date on which the member's temporary disability benefits under the workers' compensation law cease, or the date on which the member became totally and permanently disabled, whichever is later.

SECTION 10. Tennessee Code Annotated, Section 8-36-805(2), is amended by deleting the words and figures "less than one-half ($\frac{1}{2}$) the hours per day", and by substituting instead the words and figures "no more than one-half ($\frac{1}{2}$) the hours".

SECTION 11. Tennessee Code Annotated, Section 8-36-820(b), is amended by deleting the words and figures "ninety (90) days prescribed in § 8-36-805, an additional ninety (90) days", and by substituting instead the words and figures "one hundred (100) days prescribed in § 8-36-805, an additional eighty (80) days".

SECTION 12. Tennessee Code Annotated, Section 8-37-114(a), is amended by deleting the same in its entirety and by substituting instead the following:

(a) Notwithstanding any other provision of the law to the contrary, the Board of Trustees is expressly authorized to contract for investment management services for the retirement system's foreign portfolios and for the retirement system's real estate portfolios. The board shall provide for the powers, duties, functions and compensation of any investment managers so engaged. Any contract for such investment management services shall be procured in the manner prescribed by the board. The board may authorize the system's investment consultant to initially evaluate and make recommendations regarding proposals submitted by investment managers. Personal services, professional services, consultant services, management of the foreign portfolios, and management of the real estate portfolios may be procured in such manner as prescribed by the board without regard to the requirements of § 12-4-109 if the board determines that such services are necessary or desirable for the efficient administration of the retirement system's investment program and provided such procurement method is approved by the council on pensions and insurance.

SECTION 13. Tennessee Code Annotated, Title 8, Chapter 37, Part 1, is amended by adding the following as a new, appropriately designated section:

8-37-1_. (a) The Board of Trustees is hereby authorized to create one (1) or more not-for-profit corporations, limited liability companies, limited liability partnerships, or trusts for the purpose of acquiring, holding title to, and collecting income from real property on behalf of the retirement system pursuant to § 8-37-104(a)(9). The board is authorized to select a name for any such organization. The organization shall have its own board of directors which shall consist of some or all of the members of the Board of Trustees. The board of the organization may select its own chairperson with the approval of the Chairperson of the Board of Trustees.

(b) All costs and expenses incidental to the activities of any organization created pursuant to this section may be charged to and paid from the earnings of retirement system's funds.

(c) The Attorney General and Reporter or an assistant designated by the Attorney General and Reporter shall be the legal advisor of any organization created pursuant to this section. Notwithstanding any other provision of law, in cases where the interest of such organization requires additional counsel to the Attorney General and Reporter, the chair of the organization, with the approval of the Attorney General and Reporter, is authorized to employ such additional counsel.

SECTION 14. Tennessee Code Annotated, Section 8-37-212(a), is amended by deleting the words "or persons".

SECTION 15. Tennessee Code Annotated, Section 8-37-212(b), is amended by deleting it in its entirety and by substituting instead the following:


(b) Upon the death of a retired member and the beneficiary nominated by the retired member under the terms of an option, if an option was elected and had become effective, any excess of the retired member's accumulated contributions at retirement over the sum of the retirement allowance payments received by the retired member and such beneficiary shall be paid to the estate

of the last to survive of the member and such beneficiary in accordance with § 8-36-120.

SECTION 16. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 17. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: March 25, 1999


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 7th day of April 1999


DON SINQUISTE, GOVERNOR